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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,374	06/05/2001	Mehul Patel	032230-042	6275

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SYMBOL TECHNOLOGIES INC
LEGAL DEPARTMENT
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HOLTSVILLE, NY 11742

EXAMINER

FRECH, KARL D

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 07/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/873,374

Applicant(s)

PATEL ET AL.

Examiner

Karl D Frech

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 16-21 and 36-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 16-18 and 36-44 is/are rejected.
- 7) ☒ Claim(s) 2-5 and 19-21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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1. The amendment filed 6/5/01 canceling claims 6-15,16-21 and adding claims 36-44 has been entered as paper number 4.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Stringer et al 6,064,629. Stringer discloses an image sensor as bar code reader 208, a weighing platform 40 and a processor 180 and host for calculating measurements and processing the measurement and bar code information (col 12 line 24).

3. Claims 16 & 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Woodworth 6,137,577. Woodworth discloses an image sensor in cameras 70 & 72 of fixed height from a conveyor, a pattern projecting means in light sources 30 & 32, means for reading an optical code in bar code scanner 47, means for determining physical parameters from the reflection of the light from light sources 30 & 32 as they reflect onto the two dissimilarly oriented cameras 70 & 72 which, due to their differing orientations, form a two dimensional scanner.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 18, 36-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woodworth in view of Stringer et al. Woodworth and Stringer disclose that which is shown above. Woodworth does not disclose the weighing platform. Stringer does show the weighing platform. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Stringer's weighing platform with Woodworth's apparatus in order to provide weight information regarding an object being scanned. Stringer also discloses reading 3 orthogonal edges as seen in figures 19 & 20. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine this with Woodworth in order to adjust for objects in a skew orientation on the conveyor. Woodworth and Stringer do not disclose that the scanner is hand held. However, hand held scanners are old and well known. It would have been

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obvious to a person of ordinary skill in the art at the time of the invention to make the scanner hand held as this would increase the flexibility of the system.

6. Claims 2-5,19-21,44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or fairly suggest to one of ordinary skill in the art producing a signal related to weight of an object as a result of the imaging of the object as in claim 2, measuring an edge discontinuity between the edge of the platform and an edge of a counter surface as in claim 19, and measuring the movement of the weighing platform from image data relating to indicia marked on the platform as in claim 44.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Rudeen 6,134,039, Gabeler 4,920,255, Iisaka et al 5,679,941, Knowles et al 6,360,947 and Hecht 6,147,358 all disclose optical measurement of the size of an object.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl D Frech whose telephone number is (703) 305 3491. The examiner can normally be reached on maxi-flex.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on (703) 308 4075. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308 7722 for regular communications and (703) 308 7722 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 0956.



Karl D Frech
Primary Examiner
Art Unit 2876

July 14, 2003